

<p style="text-align: center;"><b>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</b></p>	<i>Application No.</i>	09/372,646
	<i>Filing Date</i>	August 12, 1999
	<i>First Named Inventor</i>	Marc A. JURGOVAN et al.
	<i>Group Art Unit</i>	1761
	<i>Examiner Name</i>	D. Becker
	<i>Attorney Docket No.</i>	914-1372DIV1
<i>Title of the Invention:</i> <b>FLEXIBLE PACKAGE HAVING A RE-CLOSABLE ZIPPER</b>		

**REPLY TO EXAMINER'S ANSWER**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Applicants disagree with the contention that Christoff '683 is capable of functioning as the claimed invention. This is mere speculation based on a hindsight reconstruction using the Applicants' disclosure. There is no teaching or suggestion, and no evidence has been proffered, that the package disclosed in Christoff '683 is capable of functioning as the package recited in the present application.

It is also suggested in the Answer that the claims of the present application lack structural features which accomplish the claimed functionality. The Applicants respectfully disagree. Achieving the claimed functionality of a package that is pinch-grip openable from below the zipper and seal location depends on a complex interplay of a number of structural aspects of the package including the shape of the engagement members the material of which the engagement members are constructed, the manner of securing the engagement members to the walls of the package, the construction of the walls of the package, etc. Preferred examples of each of these structural aspects are described in the specification. Deviation from a preferred designed feature may well cause each of the other design features to be changed in order to maintain the desired functionality of the package. The phrase "being pinch-grip operable..." in claim 1 and the phrase "being openable by de-lamination ... upon the application of a pre-determined pinch-grip pulling force..." in claim 17 necessarily include this complex interplay of structural features.

In the specification, it is described that the force required to open the zipper from inside the package is preferably reduced, preferably about equal to or less than, the force required to open the zipper from outside the package. (See page 14, lines 1-4.) Furthermore, the specification describes that "after the zipper is at least partially disengaged, the force required to continue disengagement of the engagement members is minimal or is greatly reduced. The maximum force required during the entire pinch-grip opening step can thus be minimized, if desired, since the peak of the force required to open the zipper can precede that required to open the top seal during pinch-gripping." (See page 14, lines 11-17).

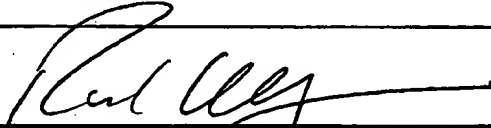
It is also suggested in the Examiner's Answer that the feature upon which Appellants rely "i.e., the top seal and zipper open simultaneously by a single force" are not recited in the rejected claims. The Applicants respectfully disagree. Claim 1 recites a package having front and rear walls sealed together at a top seal and first and second zipper parts having first and second engagement members, respectively, that are engaged together, wherein the top seal is manually pinch-openable and said first and second engagement members are manually pinch-openable under a pinch-grip pulling force applied to said front and rear walls below said engagement members. Obviously, if the package includes a top seal and inter-engaged engagement members and both are openable under a pinch-grip pulling force, they would have to be openable substantially simultaneously. Similarly, claim 17 recites a package having a top seal and a first engagement member engaged with a second engagement member and wherein the seal may be opened and the engagement may be disengaged upon application of a pinch-grip pulling force applied to the front and rear walls below the zipper. The seal and engagement members would have to open substantially simultaneously.

The Applicants also disagree with the statement in the Examiner's Answer that the claims do not specify where the pinch-grip openable force is to be applied. Both of independent claims 1 and 17 clearly indicate that the force is applied to the front and rear walls below the zipper.

Finally, Applicants disagree with the statement in the Examiner's Answer that the disclosure in Christoff '683 that the bag may be opened by pulling the seal 42 at the top of the bag open (column 6, line 35) necessarily implies de-lamination of the bag walls. Christoff '683 merely discloses that the bag may be formed of a laminated material but does not describe that the opening is effected by de-lamination. Inferring that Christoff '683 discloses opening by de-lamination simply

because the bag may be made from a laminated material is a hindsight reconstruction of the present claims.

For the foregoing reasons and the reasons set forth in Applicants' Appeal Brief, it is respectfully urged that the rejections be reversed.

RESPECTFULLY SUBMITTED,					
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